

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JESSICA L. HUTCHINSON,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 12-cv-11337

HONORABLE STEPHEN J. MURPHY, III

ORDER ADOPTING REPORT AND RECOMMENDATION (docket no. 28),
**GRANTING IN PART PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT** (docket no. 14), **DENYING IN PART DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT** (docket no. 24)
AND REMANDING THE DECISION OF THE COMMISSIONER

This matter is before the Court on review of the Commissioner of Social Security's decision denying Plaintiff Jessica Hutchinson's claim for supplemental security income. Both parties filed motions for summary judgment, and the matter was referred to a United States magistrate judge for issuance of a Report and Recommendation ("Report"). The magistrate judge issued his Report on August 2, 2013, recommending that the Court grant in part Hutchinson's motion for summary judgment and deny in part the Commissioner's motion. Report, ECF No. 28.

The magistrate judge found that the ALJ's decision was deficient because in performing the five-step sequential analysis to determine Hutchinson's entitlement to benefits, the ALJ failed at step three to address whether Hutchinson met the diagnostic description in the introductory paragraph of Listing 12.05. Report at 29. Additionally, the

magistrate judge found that the ALJ applied an improper legal standard when she determined that Hutchinson "[did] not have a physical or other mental impairment that imposes a significant work-related limitation of function." *Id.* at 32 (citation and quotation marks omitted). The magistrate judge suggests that the decision be remanded to the Commissioner "so that the ALJ can assess whether the evidence provided by plaintiff was sufficient to satisfy the requirement of deficits in adaptive functioning initially manifested before age 22, and to assess whether plaintiff's physical or other mental impairments impose significant limitations." *Id.* The magistrate judge also notes that based on these conclusions plaintiff's credibility will need to be re-evaluated. *Id.*

A copy of the Report was served upon the parties on August 2, 2013. Pursuant to Civil Rule 72(b)(2), each party had fourteen days from the date of service in which to file any specific written objections to the recommended disposition. Neither party has filed any objections, therefore de novo review of the magistrate judge's finding is not required. See Fed. R. Civ. P. 72(b)(3) (requiring de novo review by a district judge only for "any part of the magistrate judge's disposition that has been properly objected to").

Having reviewed the file and the Report, the Court finds that the magistrate judge's analysis is proper. Accordingly, the Court adopts the Report's findings and conclusions, and will enter an appropriate judgment.

WHEREFORE it is hereby **ORDERED** that the Report and Recommendation of August 2, 2013 (docket no. 28) is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff's motion for summary judgment (docket no.14) is **GRANTED** in part and Defendant's motion for summary judgment (docket no. 24) is **DENIED** in part consistent with the magistrate judge's report and recommendation.

IT IS FURTHER ORDERED that the findings of the Commissioner are **REVERSED** in part, and pursuant to Sentence Four of 42 U.S.C. § 405(g), the decision of the Commissioner is **REMANDED**.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: August 29, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 29, 2013, by electronic and/or ordinary mail.

s/Carol Cohron
Case Manager